

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CARLOS ROSS,

Plaintiff,

v.

ELLIS COUNTY SHERIFF
DEPARTMENT, et al.,

Defendants.

§
§
§
§
§
§
§
§
§
§

Case No. 3:23-CV-0031-X-BN

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE
JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. [Doc. No. 6]. Plaintiff Carlos Ross, a prisoner, filed a *pro se* complaint under 42 U.S.C. § 1983 alleging that an Ennis police officer and an Ellis County Sheriff's deputy elicited testimony from him in violation of *Miranda*.¹ Ross's complaint does not allege that any improperly obtained confession has yet been used against him. Noting that "a violation of *Miranda* does not necessarily constitute a violation of the Constitution," the Magistrate Judge recommended that Ross's claims under § 1983 based solely on *Miranda* be dismissed with prejudice under 28 U.S.C. § 1915(a).² Since Ross has asserted no unconstitutional use of his allegedly

¹ Doc. No. 1 at 3.


² Doc. No. 6 at 3–5 (quoting *Vega v. Tekoh*, 142 S. Ct. 2095, 2106 (2022)).

improper confession, the Magistrate Judge recommended that any constitutionally based § 1983 claims be dismissed without prejudice.³

Ross filed no objection to the Magistrate Judge's findings, conclusions, and recommendation.

The District Court reviewed for plain error the proposed findings, conclusions, and recommendation. Finding none, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge. The Court **DISMISSES WITH PREJUDICE** Ross's § 1983 claims that are based solely on *Miranda* under 28 U.S.C. § 1915(a). The Court **DISMISSES WITHOUT PREJUDICE** any constitutionally based § 1983 claims Ross alleges.

IT IS SO ORDERED, this 16th day of February, 2023.



BRANTLEY STARR
UNITED STATES DISTRICT JUDGE

³ *Id.* at 4.